In India initiative for constitutional agitation was first taken by Raja Rammohan Roy. When he sailed to England to place various demands before the British Parliament to get more rights and privileges for the Indians, one of his most important demands was the 'consultation of Indian public opinion before the enactment of any legislation'. This was nothing but an indirect reference to the need for the establishment of an Indian legislature. So Rammohan Roy is credited to be the sponsor of political thought or apostle of political creed based upon constitutional agitation in this country. ¹

R.C. Mazumdar pointed out that the method followed by him marked the beginning of what came to be known in later days as constitutional agitation. ² The 'Young Bengal' group was politically alert and had its clear political and constitutional demands. Dwarakanath Tagore of Landholders Society (1838) went to England in 1842 with the object of contacting friends of India there and to bring to India an eminent English orator to educate Bengali Youths in methods of constitutional agitation. As a result George Thompson came to India. The credit of demanding representative legislature in India has been given to Gopalrao Hari Deshmukh (1823-1892), commonly known as 'Lokhitawadi'. In his article (Reform of the State) contributed to Prabhakar he recommended the establishment of some kind of Parliament in India. ³ A political thinker of Bengal Aukhoy Kumar Datta (1820-1886) advocated the need for a representative government and argued that no government had an inherent right

³ B.B. Mazumdar, Indian Political Associations and Reforms of Legislatures (1818-1917) (Calcutta, 1965), p. 31.
to tax the people unless it looked after their total improvement. The National Association (Sept. 1851) proceeded on the line of constitutional agitation laid down by Rammohan Roy. Along with the other demands it asked for the separation of Legislature and Executive and inclusion of Indians in the Legislative Council. The British Indian Association (Oct. 1851) also reiterated the demand for representative Government in India. The other important associations which caught the imagination of the Indians were the India League (Sept. 1875) and the Indian Association (July, 1876). But the birth of the Indian National Congress (December, 1885) is regarded by many as the culmination.

The Indian National Congress opened a new era in the history of Indian freedom struggle. Though there was no political party as such in the beginning, the Congress provided a political platform to those who were becoming politically conscious. The first meeting of the Congress was epoch-making because what had been a vague idea floating generally in the air and influencing simultaneously the thinking of thoughtful Indians in the north and the south, the east and the west assumed a definite shape and became a practical programme of action. In the charter of demands of the congress the first demand was the development of self-government at the centre and in the provinces through proper representation. In the course of events the extremist opinion grew within the congress and came to be known as Extremist Challenge. But the early Congress (1885-1905) reiterated constitutional agitation and constitutional demands. The partition of Bengal (1905) was shocking to the Indian

5 Amalesh Tripathi, Extremist Challenge, (Calcutta, 1967)
nationalists in general and the Bengali nationalists in particular. There came a spontaneous protest from almost all corners through 'boycott and Swadeshi' movement. It can be admitted that 'what remains remarkable about the Swadeshi Age is the simultaneous presence in it, at least in germ of so many of the tendencies and forces which went on shaping the life of Indian people till 1947 and even beyond'.

Since India is the land of different races, sects, castes and communities, different political groups were naturally formed on different lines. There came into being a separate political class in the Muslim community which was a significant feature of Indian politics during the period of freedom struggle. It also created serious complications in the evolution of nationalism. During the early period of their rule the British followed a policy of systematic suppression and enfeeblement of the Muslim community. This was mainly because power was taken from them by force. The tendency of land settlement in Bengal was to bring about the social degradation of the old Muslim nobility and the official class. The Permanent Settlement (1793) of Lord Cornwallis elevated the Hindu collectors of revenue to the exalted position of landlords. The result as stated by W.W. Hunter about 1870-71 was that, 'during the last seventy-five years the Mussalman Houses of Bengal have either disappeared from the earth or are at this moment being submerged beneath the new strata of society which our rule has developed'.

The Muslims were forced out of the army, their favourite career 'because we believed that their exclusion was necessary to our

7 Indian Mussalmans (Lahore, 1964), p. 163.
Significantly the Muslims were aloof from the general political trends for quite a long time. They hardly took any active part in the political associations (e.g. Land Holders' society, British Indian Association etc.). When they became somewhat politically conscious they themselves started separate political organisations. The first was the Mohammedan Association of Calcutta founded in January 1856. The Mohammedan Literary Society (April, 1863) of Abdul Latif tried to break down prejudices and exclusiveness and to make its members interested in politics and modern thought. The society requested the Viceroy Lord Dufferin to appoint a Muslim member to the Imperial Legislative Council specially for representing the interest of the ryots during the consideration of the Bengal Tenancy Bill, 1885. Abdul Latif, however, had been associated with the Bengal Legislative Council to which he was nominated in 1862 and also later for two more terms. The Central National Muhammedan Association (1877) of Ameer Ali (great author and jurist) claimed that before its establishment there was no political body among the Indian Mahammedans capable of representing to the Government the legitimate demands of the Muslims. But the Aligarh Movement started by Syed Ahmed Khan played a vital role in the evolution of Muslim political consciousness.

To counter the Indian National Congress Syed Ahmed founded the United Indian Patriotic Association in 1888, in which both the Muslims and the Hindus participated. In 1893 he formed another organisation under the name Mohammedan Anglo Oriental Defence Association to protect the political rights of the Muslims. But none of the organisations set up by the Muslims could attain a real

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political stature of an all-India organisation with a permanent base. So the Muslim leaders felt its necessity. At the same time the Government wanted to dissuade the educated young Muslims from the Congress and to keep them away from politics. On the same issue there was correspondence between Minto, the Viceroy and Morley, the Secretary of State. Before the intended reforms (afterwards known as Morley-Minto Reforms, 1909) could take shape, a scheme for winning over the Muslims had taken a tangible form. There was the birth of the Muslim League in December, 1906. It demanded political and other rights for the Muslims. In the annual session at Lucknow in 1913 the Muslim League voiced the idea of the attainment of the system of self-government suitable to India. Before the large gathering of the Muslims in Bombay Session in 1915 Mohammad Ali Jinnah announced, 'We are not crying for the moon when we ask for self-government, but we are determined and are in earnest about it and we shall pursue our course steadfastly and unitedly till the goal is realised'.

Afterwards, Lahore Session of 1924 presided over by Jinnah at first demanded that, 'there shall be a federal constitution of India with full autonomy for the provinces, the functions of the Central Government being confined to matters of general and common concern'.

The Indian Councils Act of 1861 marked the beginning of the move towards legislative decentralisation. It further accelerated the process of separation of the executive and the legislature. Above all it initiated the momentous process of association of Indians with administration and legislation. It was called the

policy of association and sometimes the policy of 'benevolent despotism'. The authors of the Montagu-Chelmsford Report observed, 'the Act of 1861 closes a chapter. Its main interest has lain in the gradual construction and consolidation of the mechanical framework of Government ... the legislative and administrative authority of the Governor-General-in-Council has been asserted over all the provinces and extended to all their inhabitants, and the principle of recognizing local needs and welcoming local knowledge has been admitted, so local councils have been created or recreated and a few non-official and Indian members have been introduced for the purposes of advice'.

The Governor-General was directed to establish by proclamation, a Legislative Council for Bengal and that was done in 1862. Though the scope of the Act was very limited, on the working of it George Campbell said, 'As having sat both in the Governor-General's and in the Provincial Legislative Council (of Bengal), my strong feeling was that the native non-official members are much more useful in the latter than in the former. The native members really understood the questions that came before them and gave most material assistance, in many respects. They truly represented native opinion'.

The system, however, failed to satisfy the national aspirations of the educated Indians. Various factors roused their national and political consciousness: for example, three Universities of Calcutta, Bombay and Madras (1857), English as medium of higher

education, development in the means of communication like the Railways, Telegraph, Press etc. The oppressive activities of the Government like the torture on the labour engaged in indigo plantation, the Vernacular Press Act, the Ilbert Bill etc. on the one hand and on the other the foundation of different political organisations also roused consciousness.

There was another development. The Government of India was sick of the dictatorial manner in which it was being treated by the authorities in London. In 1870 the Secretary of State for India, Duke of Argyll declared that the Government in India had no independent power at all. So though the India Government was hostile to the Indian National Congress since 1888, yet it wanted to appoint more Indians in the Councils and with their help, to increase its own power against Home Government. Moreover, the European business magnets in India were also in favour of increasing the number of elected members and the enhancement of the functions of the Councils. In this respect their sole purpose was to get representation for themselves in the law-making bodies of India, for furthering their own economic interests.

Lord Dufferin openly ridiculed the demands of the 'microscopic minority' of educated Indians who had the presumption to represent the country, but his official communications to England favoured further liberalization of policy. He emphatically pointed out the impossibility of introducing constitutional government in India. Still he recommended that the Provincial Legislative Councils should be liberalised and said that the decentralization of financial system would provide to the Provincial Councils extended scope for

work,¹⁴ and thereby government would be able to keep in more inti­
mate touch with the wishes and feelings of the governed. Dufferin
prepared the ground for the measures which ultimately became the
Act of 1892 under Lord Salisbury's Government.

This Councils Act of 1892 was only an amending one. It pro­
vided for the expansion of the Imperial as well as Provincial coun­
cils by increasing the number of the additional members. According
to Regulations finally adopted, the councils of Bengal, Bombay and
Madras had 25 additional members each, out of which nine were usu­
ally officials, four nominated officials and the rest were elected
through the District Boards and Municipalities (grouped together to
constitute an electoral college), the University, the big Zamindars
and the Chambers of Commerce. Thus the rules provided for the
principle of limited election, though indirectly. But in all the
provincial councils the official majority was ensured. The Act
enlarged the functions of the Central and Provincial councils.
The Provincial councils could discuss financial matters but
that was limited to those branches of revenue and expenditure which
were under the control of Provincial governments. The Act failed
to satisfy the nationalists and its inadequacy was apparent to all.
Still in Bengal, persons like Surendra Nath Banerjea, Ananda Mohan
Basu, Lal Mohan Ghosh, Ramesh Chandra Dutt, Abdul Latif, Ameer Ali,
Guruprasad Sen and others seized every opportunity to highlight
the popular sentiment. They exposed the violation of the most
elementary democratic principles by the British Government and
asked for remedies. Their scope of discussion was limited. Still

¹⁴ Speech at St. Andrews Dinner (Nov. 30, 1888), A.C. Banerjee,
the proceedings of the Council of the Lieutenant Governor clearly demonstrated members' diligent efforts in upholding the basic norms of a parliamentary institution.

With the opening years of the twentieth century, events in India were moving fast. Lord Curzon's policy of centralization, his openly expressed contempt of Indian standards of morality, his whittling down of the Queen's Proclamation of 1858 increased discontent. The reactionary pieces of legislations like the Calcutta Municipal Act and the Calcutta University Act, 1904 which brought the Corporation and the University completely under official control and above all the partition of Bengal (1905) stirred the spirit of nationalism. Naturally, there was deep resentment against the alien rule. The idea of 'swaraj' was mooted in different corners of the country. At the Calcutta Session of the Congress (1906), President Dadabhai Naoroji anticipated the demand for self-government. As he said, 'the whole matter can be comprised in one word, 'Self Government or Swaraj' like that of the United Kingdom or Colonies'. This 'swaraj' was the chief remedy. It became an inspiring slogan and the goal of the Indian National Congress. But it presented different meanings to different sections. To the Moderates it meant parliamentary self-government, to the 'Extremists' independence and to the English sympathisers self-governance of colonial type.

However, repression in India brought about division in British public opinion which was reflected in Parliament and the Press.

The House of Lords dominated by the conservatives supported Curzon who declared 'For my own part I can say that any revocation or modification of Partition of Bengal would place a premium upon disloyal agitation in India in future and render the Government of India well-nigh impossible'. The Times of India and The Spectator supported the conservatives. On the other side the Radicals in the House of Commons warned the Secretary of State, Lord Morley that the resentment against the Partition was not confined to the upper class Hindus, but was shared by all classes. Minto, the Viceroy and Morley, the Secretary of State dealt with the difficult situation and at the same time measures were also taken for the introduction of a further instalment of reforms.

Minto's objective was to rally the moderates and to crush the extremists. Simultaneously the policy of 'divide et impera' was adopted. Within three months of the appointment of the Arundel Committee (August 16, 1906) to consider the problems arising out of the growing aspirations of the educated Indians to take a larger part in the administration of the country, the Aga Khan deputation pressed for the acceptance of the Muslims as a community for separate electorate and for weightage of their seats. After four years of deliberations (1906-1909) between Morley and Minto to work out the legislative council reforms, the Bill was passed on May 15, 1909. Regarding major provinces 'like Bengal, Bombay, Madras and U.P. the maximum number of additional members was fixed at 50. The majority of them were non-officials, though not elected. But in Bengal, exceptionally, there was a small majority of elected members.  

18 House of Lords Debates, June 30, 1908.
This was made in terms of notification No. 65 of November 21, 1912. The regulations made detailed rules for the election of members of the University of Calcutta, Calcutta Corporation, Municipalities, District Boards etc. Besides Rajas and Rai-Bahadurs, the reconstituted Bengal Legislative Council got members like Nilratan Sarkar, S.P. Sinha, P.C. Mitra, Akhil Chandra Dutta, Kishori Mohan Chowdhury, Abul Kasem, Fazlul Huq, Ambika Charan Mazumdar and others.

The Morley-Minto Reforms Act enlarged the functions of the legislative councils. First, the members could ask supplementary questions but only those who had asked questions previously. Secondly, the councils were given the right to move resolutions on matters of general public interest. Thirdly, the members got the right to move resolutions on the 'heads' of revenue or expenditure set forth in the budget and could divide the House by casting vote before the budget was finalised. But all these rights were subjected to considerable limitations and reservations.

Though the act of 1892 accepted limited elective principle it was not officially and practically introduced. The word 'election' was clearly used in the body of the Act of 1909 and this elective system received the seal of official recognition. But the election was indirect and the size of electorate was very small. The framers of the Reforms ruled out the natural and territorial representation of western type which, in their view, was unsuited for India with her diverse interests, opinions, customs and religions. As a result the institution of separate types of electorate namely, general, communal and special were created. Consequently
communal representation was introduced which led to the perpetuation of divisions among the communities. Thus the communal venom was introduced into the body politic of India. The authors of the Montagu-Chelmsford Report in later time analysed the idea behind the Reforms of 1909 in the following words:

'The problem which Lord Minto's Government set themselves to solve was how to fuse in one single government the two elements which they discerned in the origins of British Power in India. They hoped to blend the principle of autocracy derived from Moghul emperors and Hindu kings with the principle of constitutionalism derived from the British crown and Parliament to create a constitutional aristocracy.'

At the initial stage, the Congress leaders welcomed the Reforms 'as a definite step forward along the colonial path to parliamentary self-government'. But soon they were disappointed. Any way, the policy underlying the Morley-Minto Reforms proved a dismal failure. Though it increased to a certain extent the functions and privileges of the legislatures it did not even suggest the introduction of responsibility. As the British Government in India was based on irresponsible and irremovable bureaucracy, no further advance was possible on the old line of increasing associations of Indians. As Coupland observed, 'since no alternative method of advance was proposed, the growth of some distrust in the sincerity of British intention was only to be expected'.

Disillusionment was everywhere. The parliamentary garb of the legislative councils was not only deceptive but also ridiculous.

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19 Para 73.
21 Ibid, p. 53.
Within five years of the passing of the Act of 1909, the First World War broke out. Every phase of national and international life was profoundly influenced by the convulsive forces that were unchained. The war precipitated the pace of a fresh political advance in India for more than one reason. It made her to grasp the significance of two ideals, that she must control her own destiny and that no stigma should attach to her nationals in the world outside. Having played an important role in the War India realised her importance as a growing nation. Indian soldiers having returned from Europe with first hand experience of the conditions of the people in the west narrated this to the rural people and that acted as instrument of political education. This quickened political aspirations among the simple rural folk who remained so long unaffected by the political agitation of the educated intelligentsia concentrated mainly in the urban areas. After the outbreak of hostilities, Germany and Turkey also endeavoured to foment disaffection in India against England. The British Government wanted to elicit whole-hearted support of the Indians in the War. So as a gesture of goodwill to the Extremists, they released Tilak in 1914 before the expiry of his term of imprisonment. After release, Tilak supported India's contribution to War efforts on the one hand and on the other continued agitation for her self-government.

The War also had another impact on India. The industrialists and merchants realised that the difficulties of England during the War were their gain. Those men of national significance became active advocates of Home Rule for the country. In this connection Annie Besant wrote, 'The merchant class began to see that Home Rule would be to them an immense advantage, and this explains why a little
later, they contributed largely to Mr. Gandhi's movement which they mistakenly supposed would bring Home Rule'. Their active interest in politics strengthened the financial basis of the nationalist agitation and the Congress became a powerful organisation.

During the time, Indian political scene was becoming somewhat different. Gokhale and Dadabhai Naoroji died and the rift between the Extremists and the Moderates which started in 1907 closed in 1916. The Congress was then practically in the hands of the Extremists led by Tilak and Annie Besant. Annie Besant had already started the movement for Home Rule and that was incorporated in the demands of the Congress. For her activities Besant was arrested and that fanned the flame of the movement which got an all India character. At that time the Moderate leaders also began to think otherwise. The experience of Moderate leaders like Surendra Nath Banerjea both within and outside the Legislative Council strengthened their convictions that reconciliation between popular demands and British intransigence was impossible. So he outlined his scheme of constitutional reforms and among other things emphasised a distinct role for the Provincial and Imperial Legislature.

In 1916 the entente between the Congress and the Muslim League and their joint demand for constitutional reforms swayed the British statesmen in thinking of a change of policy. The Mesopotamia Commission (1917) also had shown that the Government of India was inefficient and unpopular and a measure of responsible government was necessary to mobilize public opinion in India in favour of war efforts. In the middle of 1917 when the war entered

22 India : Bond or Free (Madras, 1939), p. 182.
a critical stage a radical change in Indian policy appeared to be necessary to avoid rupture with the national forces and to enlist the willing support and co-operation of all sections of Indian people in the war efforts. In this posture of events a man of progressive outlook, Montagu became the Secretary of State for India in July 1917. He made the historic declaration of policy of British Government in relation to India in Parliament on August 20, 1917. In 1912 he came to India to acquaint himself personally with the country. It had been told about him that he was not an ordinary friend of India. He had a passion for India. No one before or after Montagu came anywhere near him in love of India and service of the Indian people. 24

Montagu came to India again in winter 1917 fully determined to introduce a substantial dose of responsible government. But after his arrival he was sorry to find that the Viceroy, the Governors and the Services were not as liberally inclined as he was. They all wanted him to go slow. He recorded in his diary angrily, 'I wish I could get the damned bureaucracy to realise that we are sitting on an earthquake'. Montagu, however, stayed in India till May 1918 and in company with the Viceroy, Lord Chelmsford, he toured important cities like Bombay, Madras, Calcutta and Delhi, met many national leaders, received many deputations, examined many witnesses and considered various proposals for constitutional advances. Among the mass of material special mention should be made of a scheme of Dyarchy formulated by Lionel Curtis of The Round Table Group and elaborated by Charles Duke, an ex-Governor of Bengal, for application to Bengal. That perhaps

influenced Montagu most.

The tangible result of the investigations and of the collaboration of the two authorities was the famous document which is popularly known after its framers as The Montagu-Chelmsford (or Montford) Report. The Report was signed on April 22, 1918 and published shortly after in July of the same year. The Report contained a brief historical survey of the Indian administrative system and a lucid exposition of its growth. Then followed a discussion of the different proposals for reforming the existing system. There were also a series of recommendations for acceptance by Parliament. The Report was revolutionary. Coupland described it as 'the first comprehensive study that had yet been made of the whole problem of Indian Government, it took rank at once as a permanent contribution to the Science of Politics'. The publication of the Report was followed by the drafting of a Bill, its reference to a Joint Parliamentary Committee, and its final passage into an Act in 1919. The new scheme actually began working in the beginning of 1921.

There were three main subjects on which the new Act was based. First, an attempt was made to give a more effective voice to the public in the conduct of the Central Government, though no element of responsibility was introduced in this sphere. The Central Legislature was given the bicameral shape. A wider franchise was prescribed for the election in lower house. The Legislative Assembly was given many opportunities to expose and criticise the attitude of the central executive.

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Secondly, the central and provincial spheres were demarcated and distinguished from each other with greater clarity and precision. A large measure of independence was granted to the provinces. The list of central subjects contained items (defence, foreign and political relations, public debt, tariff and customs, currency and coinage, posts and telegraphs, railways, etc.) which required uniformity of policy and control throughout India. The list of provincial subjects contained items (inter alia local self-government, public health and sanitation and medical administration, education, famine relief, agriculture, forests, co-operative societies, law and order) in which freedom and initiative could be left to local authorities with advantages. But the division between central subjects and provincial subjects was not clear cut and there were some overlapping subjects.

Thirdly, it was laid down in the Montford Report that it was in the domain of Provincial Governments that the first advance towards the progressive realisation of responsible government should begin. But their conclusion was that 'complete responsibility cannot be given immediately without inviting a break-down'. The successful working of popular government, they argued, rested 'not so much on statutes and written constitutions, as on the gradual building up of conventions, customs and traditions. These are based on the experience and political thought of the people, but are understood and appreciated by both the governed and the Government. Nothing but time could adequately strengthen them to support the strain to which they are exposed'. The British ruler, therefore, refrained from immediately handing over complete responsibility

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27 Ibid, para 153.
of Provincial Government to the duly elected representatives of the people and proceeded by transferring responsibility for certain functions of government while reserving control over others. The reserved half was to be administered by an irremovable executive council as before. The main Reserved Subjects were land revenue administration, irrigation and canals, drainage and embankments, water storage and water power, administration of justice, police, factory inspection, settlement of labour disputes, industrial insurance and housing, etc. The Transferred half was given for management to a new class of officials called Ministers. They were selected from among the elected members of the provincial legislative council and were made fully responsible to that chamber for their actions and policy. The most important of the Transferred subjects were local self-government, public health, sanitation and medical administration, education other than Europeans and Anglo-Indians, public works including roads, bridges and municipal tramways, agriculture and fisheries, co-operative societies, excise, development of industries, weights and measures. A part of the provincial budget was placed under the control of the members of the legislative council.

The Act of 1919 set up a unicameral Legislature called a Legislative Council in each of the eight major Provinces. It enlarged the Provincial Councils and provided that at least 70 per cent members of a Council should be elected members and that not more than 20 per cent should be official members. The system of indirect election was swept away and the Provincial Councils were elected directly by the people. The proposals made by the Franchise Committee enfranchised about one-tenth of the adult male population
of the country. The normal qualification for the vote was residence within the constituency, coupled with the payment of some amount of land revenue, rent or local rates in rural areas and of municipal rates in urban areas. All persons who paid income tax, and all retired, pensioners or discharged officers or men of the regular forces were also enfranchised. Women were originally deprived of the franchise, but the Provincial Legislatures were empowered to remove the disqualification and that was done in every province. During this time, women also agitated for their franchise right under the banner of All India Women Franchise Committee.28 The normal life of the Legislative Council was three years. It could also, in special circumstances, extend its life for a period not exceeding one year. Hitherto the Governor had presided over the Council but the Act provided for the appointment of the President and the Deputy President. The Governor ceased to be a member of the council but he had the right of addressing the Council. He was also given the right to veto legislation. The President of the Council for the first four years after the introduction of the Reforms was to be appointed by the Governor, but thereafter the Council was to elect its own President from amongst its members.

The question of communal electorates had been fully discussed in the Montford Report. The authors declared that they (communal electorates) were opposed to the teaching of history, that they perpetuated class divisions, that they stereotyped existing relation, and that they constituted very serious hindrance to the development of the self-governing principle.29 Nevertheless the framers

28 The author had the privilege to know this fact from the revolutionary leader late Lila Roy, the Assistant Secretary of the said Committee.
of the Report felt the necessity to admit the communal system into the Constitution and that was done.

The working of the Act commenced in April 1921 and dyarchic governments were established in the Provinces of Bengal, Bombay, Madras, Assam, the Central Provinces, Bihar and Orissa, the United Provinces and the Punjab. The Reforms Act was denounced by nationalist opinion in the country as being inadequate, unsatisfactory and disappointing. The Congress had decided to boycott it and had not contested elections to the new legislatures. The Reforms synchronised with a decisive stage in the evolution of the Congress from a constitutional body to a revolutionary organisation. The impact of the war, the Rowlatt Act and the consequent tragedy of Amritsar, the Khilafat Movement (which temporarily bridged the gulf between the Hindus and the Muslims), Gandhiji's new technique of struggle, the Satyagraha - all these created a new situation and demanded a new orientation of policy and methods.

The system of Dyarchy was the most objectionable feature of the Act of 1919. It failed to satisfy the Indian people. Those who accepted it were convinced that it was too complicated to be smoothly worked. Dyarchy, however, worked though not without occasional breakdown, for about 15 years. In Bengal certain circumstances, in particular the activities of the Swarajist Party of Chittaranjan Das which was pledged to a policy of wrecking the Constitution from within, led to a temporary and intermittent breakdown during the years 1914-30.  

31 Appadorai, Dyarchy in Practice (Madras, 1948), p. 69.
In all, four general elections were held in 1920, 1923, 1926 and 1929-30. In Bengal, the Swarajists succeeded in forming a coalition with an Independent party. With their help they succeeded in throwing out from the Budget important demands for grants and refused to grant salaries to Ministers. This happened more than once. The result was that from August 28, 1924, to March 13, 1925, and again from March 26, 1926 to June 12, 1927, there were no ministers in Bengal. There had already been differences of opinion in Bengal between the Das group and the Gandhians over the question on Council entry. The Swarajists under the leadership of Chittaranjan Das were in an advantageous position in the election of 1923. In Chittaranjan Das, the Party had a leader of outstanding ability - a politician with a flair for the dramatics and an acute sense of timing, a man who could command the unquestioning obedience of his followers and who could yet delegate power wisely. He had gathered a group of lieutenants who were scarcely less capable than himself. They were Jatindra Mohan Sengupta, Subhas Chandra Bose, Birendra Nath Sasmal, Nirmal Chandra Chanda and Kiran Shankar Roy. For the first time in Bengal there was a party that approached a general election with an unchallenged leader and a central organisation to nominate its candidates. The Swarajjya Party owed its victory primarily to its success in spanning the two levels of politics - the old level of the sophisticated 'bhadralok' and the new level of the mass electorate. During the last years of his life Das had no easy time. There was difference within the Congress on the one hand and on the other the British tried to win over the Muslims. In Bengal the Governor

(Lytton) had a hand behind it. There was a growing sense of despair all around.

**Background to the Act of 1935**

The Government of India, partly responding to public opinion had appointed the Reforms Enquiry Committee in 1924 under the Chairmanship of Alexander Muddiman. To meet the repeated demands of the Indians to include the establishment of full responsible government in the provinces, the Indian Statutory Commission was appointed in 1927. In November 1927 they made the announcement that an all-White Statutory Commission under the presidency of John Simon would be immediately sent out to India. Divergent views had been expressed on the appointment of the Commission earlier than the prescribed period of ten years. But the only convincing explanation was that the Conservative Government headed by Stanley Baldwin did not risk the appointment of the statutory body by the Labour Government, which, it was felt, would almost certainly come into power in the next General Elections.

In spite of Congress boycott the Simon Commission proceeded with its work. It recommended that the British Government should summon both representatives of British India and representatives of the States to a conference for the purpose of seeking the greatest possible measure of agreement for the final proposals which it would later be the duty of His Majesty's Government to submit to Parliament. This was the origin of the Round Table Conference in which the Labour Government decided to discuss the constitutional future of India. The British Parliament was reminded of the real situation in India. Brown said: 'young India has reached the
conclusion that nothing but violence can shake British rule in that country. I venture to suggest that we should regard it as a cardinal feature of British policy to carry Gandhi with us, for if we do not carry Gandhi with us, we have to face the alternative to Gandhi, and that is organised violence and revolutionary effort. The Indian National Congress declined to take part in the proceedings of the Round Table Conference and launched the Civil Disobedience Movement. The first Round Table Conference was opened in November 1930 and lasted for ten weeks. In India most of the imprisoned leaders with their followers were released. The Viceroy, Lord Irwin, had prolonged discussions with Gandhiji and ultimately they had come to an agreement. The non-cooperation movement was called off and Gandhiji proceeded to England to attend the second Round Table Conference which was convened towards the end of 1931.

In the meantime there was change of situation in England due to great depression and the Labour Party had gone out of office. In India the differences between Hindus and Muslims appeared to be quite irreconcilable. So the Second Round Table Conference ended abruptly and the communal question was referred to the arbitration of the Prime Minister. After coming back from England at the beginning of 1932 Mahatma Gandhi revived the Civil Disobedience Movement. The Communal Award was published a few months later. As a protest against some of the clauses of the Award which referred to the Depressed Classes, Gandhiji decided to fast unto death. Hurried conversations and negotiations were held behind prison bars and agreement was reached in the Poona Pact (September, 1932). The Communal Award was modified accordingly and the fast came to

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an end. By Communal Award, rift between the Indian communities became larger and communal problem became acute. Future India had to bear the fruits. But it must be acknowledged that whatever the defects of the Award might be, and whatever injustice it might have caused to some parties, yet but for some decision, no advance of any kind in constitutional discussions could have been achieved.  

The various recommendations of the Third Round Table Conference were considered by the Home Government and in March 1933 the latter published a White Paper containing their own proposals. These proposals were scrutinised by a Joint Parliamentary Committee presided over by Lord Linlithgow and in consultation with a few Indian representatives nominated by the government. After the publication of that Committee's Report a Bill was introduced in Parliament to give concrete shape to the net achievement of such prolonged investigations and discussions. The Government of India Bill was finally passed into law on August 2, 1935. Thus an eventful chapter in the constitutional history of India came to an end.

The Government of India Act, 1935 was received with indignation and resentment by all shades of public opinion in India. Jawharlal Nehru described the Act as a 'new charter of bondage'. In the Lucknow session of the Congress (April 1936), it was resolved that in no way it represented the will of the nation. It was designed to facilitate and perpetuate the domination and exploitation of the people of India. It was imposed on the country to the accompaniment of widespread repression and the suppression of civil liberties. The Congress reiterated its rejection of the new

Constitution in its entirety. The Muslim League was clearly of the opinion that the Scheme of All-India Federation, which the Act envisaged, was 'fundamentally bad'. The League characterised it as 'most reactionary, retrograde, injurious and fatal to the vital interests of British India vis-a-vis the Indian States, and it is calculated to thwart and delay indefinitely the realisation of India's most cherished goal of complete responsible government and is totally unacceptable'. Still the Act was a reality and India had to accept it.

The Act of 1935 was unusually big and detailed in nature. It had as many as 14 parts of 321 sections and 10 schedules. It introduced Dyarchy at the centre. The scheme of distribution of powers provided by the Act was something peculiar. It made an elaborate enumeration of powers under three lists in the Seventh Schedule - a Federal list consisting of 59 items, a Provincial List consisting of 54 items and a Concurrent List of 36 items. The assignment of so many items in the Concurrent List had an implication. It had tendency to add to the strength of the centre. In case of conflict between a law made by the Federal Legislature and one by the Provincial Legislature the former would prevail.

A chain of Constitutional Safeguards ran throughout the Act. The safeguards were found not only in the special powers vested in the Governors and Viceroy's to be used at discretion or in individual judgement, but also in the numerous limitations placed on the powers of the Federal Legislature and Provincial Legislatures. The safeguards extended over the whole field of

38 All India Muslim League Resolutions, 1924-36, pp. 66-67.
the Government and were to throttle democratic forces in India. Classic examples were the overthrow of Aflah Box (Sind) in October 1942 and of Fazlul Huq (Bengal) in March 1943.

The reservation of key subjects at the centre like Defence, External Affairs, Ecclesiastical and Tribal Affairs brought an extensive area of central administration outside the purview of popular control. The vast list of special responsibilities of the Viceroy and the Governors practically set at naught ministerial responsibility to an indefinite extent. The lack of power of amending the Act on the part of the legislatures constituted a safeguard against liquidation of all vested interests protected by the British. The ministers were denied control over the Superior Services called the Secretary of States' Services. Above all, extraordinary powers were vested in the Provincial Governor. He was given the power to declare a breakdown of the Constitution with the approval of the Governor-General and himself to assume practically dictatorial powers in the administration of the Province.

A realistic analysis of the nature and content of these Safeguards reveals the fact that the British were trying to safeguard their vested interests. In fact those were intended to entrench British Imperialism firmly on the Indian soil and to nullify the so called Provincial Autonomy, that the Act had designed as another step towards self-government. Maulana Azad analysed this in the following words - 'The Government of India Act, 1935, provided for provincial autonomy but there was a fly in the ointment. Special powers were reserved to the Governors to declare
a state of emergency, and once a Governor did so, he could suspend the constitution and assume all powers to himself. Democracy in the provinces could therefore function only so long as the Governors permitted it.\textsuperscript{39}

**Provincial Autonomy**

The most important feature of the Government of India Act, 1935, was the introduction of Provincial Autonomy. According to A.B. Keith, the Act of 1935 recognised the failure of the Act of 1919 and presented, so far as Indian social conditions had permitted, the possibility in the provinces of responsible government.\textsuperscript{40} Although it was applied for the first time after the implementation of the Act the idea was not new. Bisheshwar Prasad has elaborately discussed this.\textsuperscript{41} For a long time the British administrators had been thinking of the concept in relation to the future line of constitutional development in India. The Despatch of Lord Hardinge to the Secretary of State as early as 1911 is an important document in this respect. The Despatch was on the subject of transfer of Capital from Calcutta to Delhi. That Despatch stated: 'Indians would have to be allowed a larger share in the Government of their own country .... and the only practicable way in which that can be done is gradually to give to provinces a larger measure of administrations, autonomous in all provincial affairs, with the Government of India above them all and possessing powers to interfere in cases of mis-government, but ordinarily restricting their functions to matters of imperial

\textsuperscript{39} India Wins Freedom (New Delhi, 1972), p. 11.
\textsuperscript{40} A.B. Keith, Constitutional History of India, p. viii.
\textsuperscript{41} The Origins of Provincial Autonomy (Allahabad, 1941).
concern'. It was stated by the authors of the Montagu-Chelmsford Report: 'The Provinces are the domain in which the earlier steps towards the progressive realisation of responsible government should be taken. Some measure of responsibility should be given at once, and our aim is to give complete responsibility as soon as conditions permit'.

The Act of 1919 apparently gave effect to this suggestion by earmarking certain subjects as 'Provincial Subjects'. But as noted before that responsibility was not exclusive since the Viceroy in Council and the Central Legislature continued to exercise extensive authority throughout the whole of the Province.

At the first Round Table Conference, the concept of Provincial Autonomy in both its aspects implying responsibility of the ministry to the Legislature and elimination of control from above was accepted in principle as the basis of the new Constitution. The Joint Select Committee of the Parliament (1934) analysed that 'The Scheme of Provincial Autonomy, as we understand it, is one whereby each of the Governors' Provinces will possess an Executive and a Legislature having exclusive authority within the Province in a precisely defined sphere, and in that exclusive provincial sphere broadly free from control by the Central Government and Legislature'. Of all the proposals, the concept of Provincial Autonomy received the greatest measure of support on every side. The economic, geographical and racial differences between the Provinces on the one hand and the sense of Provincial individuality on the other, made such a report almost inevitable.

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42 Para 189.
The Provincial Autonomy was the subject matter of Part III of the Act of 1935 which was devoted to the Governors' Provinces. Dyarchy was abolished and the administrative authority was to be exercised by the Governor who was to be aided and advised by a Council of Ministers except in so far as he was required to act in his discretion. It was added that 'nothing in this sub-section shall be construed as preventing the Governor from exercising his individual judgement in any case whereby or under this Act he is required so to do'.\(^45\) Thus from the very beginning there was a clear line drawn between those functions in which the Governor was to be aided and advised by the Council of Ministers and those in which he needed not consult his Ministers and in those matters they had no constitutional right to offer any advice or call in question the 'validity of anything done by the Governor'.\(^46\)

Section 51(1) of the Act provided that 'the Governor's Ministers shall be chosen and summoned by him, shall be sworn as members of the Council, shall hold office during his pleasure'. Though the Ministers were appointed by the Governor in his discretion, the Instrument of Instructions required that he would select in consultation with the person who in his judgement was most likely to command a stable majority in the Legislature, those persons (including so far as practicable members of important minority communities) who would best be in a position collectively to command the confidence of the Legislature. The Instrument of Instructions, thus enjoined upon the Governor to bear constantly in mind the need for fostering a sense of joint responsibility among his Ministers.

\(^{44}\) Government of India Act, 1935, Section 50(1).

\(^{45}\) Ibid, 50(3).
For the first time in the Indian Constitutional history the bicameral principle had been introduced in the provincial sphere. Following the model of the Federal Upper Chamber the Provincial Legislative Council was made a permanent body never liable to a wholesale dissolution. The members to the Bengal Legislative Council were to be not less than 63 and not more than 65. The structure of the Council followed the usual lines of an oligarchical concentration. The franchise for their election was extremely high and the constituencies which were to elect them were very narrow. The Legislative Council was a permanent body. One-third of its members had to retire every three years and an individual member had a tenure of as many as nine years. This was of course an abnormally long period for any elective chamber. Qualifications of the members of Bengal Legislative Council were as follows: (a) those who paid income-tax on an annual income of not less than Rs. 5,000/-; (b) those who held titles not less than Rai Bahadur; (c) those who had been members of any legislature, executive councillors, ministers, members of the senate of a university, high court judges, presidents of municipalities or district boards, chairmen of central co-operative banks, etc.; (d) those non-Muslims who in Burdwan and Presidency Divisions used to pay an annual land revenue or rent or both of not less than Rs. 2,000/- and in the divisions of Dacca, Rajshahi and Chittagong not less than Rs. 1,500/-; (e) those Muslims who used to pay not less than Rs. 250/- per year as land revenue or rent or both. Women possessing these qualifications had the right to vote. A woman could also vote if in the case of
non-Muslims, her husband paid income-tax on an annual income of not less than Rs. 12,000/- or paid as a proprietor, land revenue of not less than Rs. 7,000/- per year in Burdwan and Presidency Divisions and not less than Rs. 5,000/- in Dacca, Rajshahi and Chittagong Divisions. In the case of Muslims the husband must pay income-tax on income of not less than Rs. 6,000/- or land revenue of not less than Rs. 600/- per year. The composition of the chamber or chambers of the Legislature of a province was such as was specified in relation to that Province in the Fifth Schedule to the Act of 1935. The tenure of the Legislative Assembly was for five years.

The provinces were divided into small territorial areas as constituencies for the purpose of elections and an electoral role was prepared for every territorial constituency. No person could become a voter unless he was twenty-one years of age and no person could become a member of a Provincial Legislative Assembly unless he attained the age of twenty-five, and of the Legislative Council before the age of thirty. Franchise was very limited and it was primarily based on property and educational qualifications. The detailed definition of voters and qualifications of electors for the Provincial Legislative Assembly in Bengal had been stated in Government orders. The details of the distribution of seats were based upon the provisions of Communal Award and Poona Pact. The award increased Muslim representation from 39 seats in the Assembly of 139 members under the 1919 Act to 120 seats in the

Assembly of 250 members as decided by the 1935 Act. In these 120 seats two seats for Muslim women and one for Dacca University were included. Additional 111 seats created under new franchise had been divided among Muslims, Scheduled Castes and Europeans. Of the 250 seats in the Bengal Legislative Assembly 48 were general, not reserved for the Hindus of which 12 were urban and 36 rural; 39 special seats representing different interests i.e., 5 for Landholders, 8 for Labourers, 2 for Universities, 5 for Women (2 Hindus, 2 Muslims and 1 Anglo Indian), 19 for Commerce (14 European, 4 Hindu, 1 Muslim) and the remaining 163 seats were reserved for different constituencies. Out of these 163 seats 117 were reserved for the Muslims (6 urban, 111 rural), 30 for Scheduled Castes, 11 for Europeans, 3 for Anglo-Indians and 2 for Indian Christians. Thus the Christians who formed only 0.36 per cent of the population were entitled to 31 seats. That was not in proportion to the population of either the Hindus or the Muslims. The ultimate result was that the future coalition ministries of Bengal had to depend on the European group in the Legislature, as they were solid and naturally a deciding factor. The following diagrams comparing the respective positions of Hindus, Muslims and others in Bengal would be interesting here:

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Diagram 1

Total Population

<table>
<thead>
<tr>
<th>Community</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>M = Mohammedans</td>
<td>54.8</td>
</tr>
<tr>
<td>H = Hindus</td>
<td>43.1</td>
</tr>
<tr>
<td>C = Christians</td>
<td>0.4</td>
</tr>
<tr>
<td>O = Others</td>
<td>1.7</td>
</tr>
</tbody>
</table>

Diagram 2

Adult Population

<table>
<thead>
<tr>
<th>Community</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>M = Mohammedans</td>
<td>51.3</td>
</tr>
<tr>
<td>H = Hindus</td>
<td>46.6</td>
</tr>
<tr>
<td>C = Christians</td>
<td>0.4</td>
</tr>
<tr>
<td>O = Others</td>
<td>1.7</td>
</tr>
</tbody>
</table>

(Note: Figures classified according to age are given in the census, 1931. In calculating Adult Population the number for persons below 20 omitted).

* Number of Muslims and Hindus per hundred of the total population of Bengal are shown in Map I(FV') and 2(FVII) respectively.
Diagram 3

Literacy per cent

M = Mohammedans 33.5
H = Hindus 64.2
C = Christians 1.5
O = Others 0.8

As examples, some of the qualifications of voters to the Bengal Legislative Assembly are presented here: (a) those who paid the motor vehicles tax, or income tax, or a tax or licence fee to the Calcutta Corporation, or municipal tax of not less than annas 8 or road and public works tax of not less than annas 8 or the chaukidari tax had passed the matriculation or an equivalent examination. Women possessing these qualifications were given the right to vote. A woman was also entitled to vote if her husband owned or occupied, in the city of Calcutta, a house valued for assessment purposes at not less than Rs. 150/- per annum or, in any other city, if he paid municipal fees or taxes of not less than Rs. 1-8 per year, etc. On the whole the franchise was very limited and only an average 14 per cent of the British Indian population got the right to vote. In Bengal the percentage of voters was only 13.4. Here the number of total electorate was 6,695,483.49 The bulk of the population could not rise up to standard to vote. That was the proof that the general

49 G.I. Home Poll F. No. 129/37.
condition of the people was very poor.

In short, the Government of India was compelled to introduce some reforms in India because the circumstances in the country changed due to the First World War and due to some repressive measures of the Government. So, Montagu-Chelmsford Reforms were introduced in 1919. With it the Government broadened the functions and privileges of the legislatures and introduced the system of Dyarchy in Bengal. The system of communal electorates introduced in 1909 was intensified. Though the provinces got responsible governments to some extent that was not satisfactory enough and there were limitations. Against the British policy of oppression and reactionary activities of the Government, dissatisfaction was everywhere. There was the call of non-violent non-cooperation movement. In course of time, the British Government adopted some ameliorative measures. The Indian Statutory Commission was appointed and there were three Round Table Conferences. After much deliberations Provincial Autonomy for the first time had been introduced in the eleven provinces with the passing of the Act of 1935. The Communal Award of 1932 played a vital role in this new system of Government and moulded the politics of the years following 1935.

The new Act introduced bicameral legislatures in some provinces. The number of voters was limited due to limited franchise which was based on economic and educational standards. This also indicated the extent of poverty that was prevailing in the country. In spite of this, there was general enthusiasm among
The people over the election in Bengal. All the parties and groups - all-India and Provincial - prepared themselves for elections.